
UNITED STATES DISTRICT COURT**EASTERN DISTRICT OF TEXAS**

BRIAN HUTCHINS,

Plaintiff,

versus

TEXAS BD. PARDONS & PAROLES,

Defendant.

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CIVIL ACTION NO. 9:23-CV-168

**MEMORANDUM ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND
ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Brian Hutchins, a prisoner confined at the Polunsky Unit of the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), proceeding *pro se* and *in forma pauperis*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against the Texas Board of Pardons and Paroles.

The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends dismissing the action pursuant to 28 U.S.C. § 1915(e) as frivolous and for failure to state a claim.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Plaintiff filed objections to the magistrate judge's Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court concludes

the objections are without merit. Texas prisoners do not have a right to parole that is protected by the United States Constitution or federal law. *Swarthout v. Cooke*, 562 U.S. 216, 219 (2011); *Johnson v. Rodriguez*, 110 F.3d 299, 308 (5th Cir. 1997). Because Plaintiff does not have a liberty interest in parole, he cannot challenge the constitutionality of state parole procedures. *Wansley v. Mississippi Dep't of Corr.*, 769 F.3d 309, 312-13 (5th Cir. 2014).

ORDER

Accordingly, Plaintiff's objections (#9) are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge (#7) is **ADOPTED**. A final judgment will be entered in accordance with this order.

SIGNED at Beaumont, Texas, this 28th day of June, 2024.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE